

SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE COMMISSION
AND
GARY W. PEARMAN

Gary W. Pearman ("Pearman") and the Missouri Real Estate Commission ("MREC") enter into this Settlement Agreement for the purpose of resolving the question of whether Pearman's license as a broker salesperson, no. 1999021091, will be subject to discipline. Pursuant to § 536.060, RSMo 2000,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the MREC under § 621.110, RSMo Cum. Supp. 20011. The MREC and Pearman jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo Cum. Supp. 2011.

Pearman acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges proven upon

¹ All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted.

the record by competent and substantial evidence; the right to cross-examine any witnesses appearing against him at the hearing; the right to present evidence on his behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the charges pending against him; the right to a ruling on questions of law by the Administrative Hearing Commission; the right to a disciplinary hearing before the MREC at which time Pearman may present evidence in mitigation of discipline; the right to a claim for attorney fees and expenses; and the right to obtain judicial review of the decisions of the Administrative Hearing Commission and the MREC.

Being aware of these rights provided to him by law, Pearman knowingly and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document as they pertain to him.

Pearman acknowledges that he has received a copy of documents that were the basis upon which the MREC determined there was cause for discipline, along with citations to law and/or regulations the MREC believes were violated. Pearman stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREC that Pearman's license as a broker salesperson, license no. 1999021091, is subject to disciplinary action by the MREC in accordance with the relevant provisions of Chapters 621 and 339, RSMo, as amended.

The parties stipulate and agree that the disciplinary order agreed to by the MREC and Pearman in Part II herein is based only on the agreement set out in Part I herein.

Pearman understands that the MREC may take further disciplinary action against him based on facts or conduct not specifically mentioned in this document that are either now known to the MREC or may be discovered.

I.

Joint Stipulation of Facts and Conclusions of Law

Based upon the foregoing, the MREC and Pearman herein jointly stipulate to the following:

1. Gary W. Pearman is a broker salesperson licensed by the Missouri Real Estate Commission, license no. 1999021091. At all relevant times herein, Pearman's license was active and current.
2. On July 26, 2009, Pearman was arrested and charged with driving while under the influence.
3. On August 20, 2010, Pearman pled guilty to one felony count of driving while under the influence.
4. Section 339.100.2, RSMo Cum. Supp. 2010, states in pertinent part:
 2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621, RSMo, against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

.....

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;

.....

(18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

5. Section 339.040.1, RSMo Cum. Supp. 2010, states in pertinent part:

1. Licenses shall be granted only to persons who present, and corporations, associations, partnerships, limited partnerships, limited liability companies, and professional corporations whose officers, managers, associates, general partners, or members who actively participate in such entity's brokerage, broker-salesperson, or salesperson business present, satisfactory proof to the commission that they:

(1) Are persons of good moral character; and

(2) Bear a good reputation for honesty, integrity, and fair dealing; and

(3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

6. Pearman's behavior, as described above, pleading guilty to one felony count of driving while under the influence, qualifies as a sign of poor moral character, in violation of § 339.040.1(1), RSMo Cum. Supp. 2010. Thus, providing grounds for discipline of Pearman's broker salesperson license pursuant to § 339.100.2(16), RSMo Cum. Supp. 2010.

7. Based upon the above described conduct, Pearman having pled guilty to one felony count of driving while intoxicated, grounds exist for the MREC to discipline Pearman's broker salesperson license pursuant to § 339.100.2(18), RSMo Cum. Supp. 2010.

II. Joint Agreed Disciplinary Order

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the MREC in this matter under the authority of § 536.060, RSMo, and §§ 621.045.3 and 621.110, RSMo Supp. 2011.

8. Pearman's license is on probation. Pearman's license as a broker salesperson is hereby placed on PROBATION for a period of 2 YEARS. The period of probation shall constitute the "disciplinary period." During the disciplinary period, Pearman shall be entitled to practice as a broker salesperson under Chapter 339, RSMo, as amended, provided Pearman adheres to all the terms of this agreement.

1. **Terms and conditions of the disciplinary period.** The terms and conditions of the probation are as follows:

A. Pearman shall keep the MREC apprised at all times of his current address and telephone number at each place of residence and business. Pearman shall notify the MREC in writing within ten (10) days of any change in this information.

B. Pearman shall timely renew his real estate license(s), timely pay all fees required for license renewal and shall comply with all other requirements necessary to maintain his license(s) in a current and active status.

C. Pearman shall meet in person with the MREC or its representative at any such time or place as required by the MREC or its designee upon notification from the MREC or its designee. Said meetings will be at the MREC's discretion and may occur periodically during the probation period.

D. Pearman shall immediately submit documents showing compliance with the requirements of this settlement agreement to the MREC when requested by the MREC or its designee.

E. During the probationary period, Pearman shall accept and comply with unannounced visits from the MREC's representative to monitor compliance with the terms and conditions of this settlement agreement.

F. If at any time during the disciplinary period, Pearman changes his residence from the State of Missouri, ceases to be currently licensed in Missouri under Chapter 339, RSMo, as amended, fails to timely pay all fees required for license renewal, or fails to keep the MREC advised of all current places of residence and business, the time of absence, unlicensed status, delinquency in paying fees for license renewal or unknown whereabouts shall not be deemed or taken as any part of the disciplinary period.

G. Pearman shall comply with all relevant provisions of Chapter 339, RSMo, as amended, all rules and regulations duly promulgated thereunder, all local, state, and federal laws. "State" as used herein includes the State of Missouri and all other states and territories of the United States.

9. Upon the expiration of the disciplinary period, the license of Pearman shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the MREC determines that Pearman has violated any term or condition of this Settlement Agreement, the MREC may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke or otherwise lawfully discipline Pearman's license.

10. No additional discipline shall be imposed by the MREC pursuant to the preceding paragraph of this Settlement Agreement without notice and opportunity for

hearing before the MREC as a contested case in accordance with the provisions of Chapter 536, RSMo.

11. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future violations by Pearman of Chapter 339, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

12. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Settlement Agreement that are either now known to the MREC or may be discovered.

13. If any alleged violation of this Settlement Agreement occurred during the disciplinary period, the parties agree that the MREC may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. Pearman agrees and stipulates that the MREC has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

14. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

15. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this

Settlement Agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

16. The parties to this Settlement Agreement understand that the MREC will maintain this Settlement Agreement as an open record of the MREC as required by Chapters 339, 610, and 324, RSMo, as amended.

17. Pearman, together with his partners, heirs, assigns, agents, employees, representatives and attorneys, does hereby waive, release, acquit and forever discharge the MREC, its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo (as amended), or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Settlement Agreement in that it survives in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

18. Pearman understands that he may, either at the time the Settlement Agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Pearman's license. If the Administrative Hearing Commission issues an order stating that the Settlement Agreement does not set forth cause for discipline, then the MREC may proceed to seek discipline against Pearman as allowed by law. If Pearman desires the Administrative Hearing Commission to review this Settlement Agreement, Pearman may submit his request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65102.

19. If Pearman requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Pearman's license. If Pearman does not request review by the Administrative Hearing Commission, then this Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREC.

LICENSEE

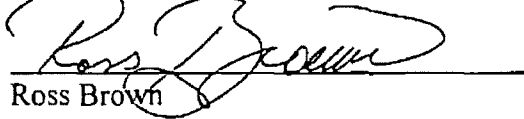
Missouri Real Estate Commission

Gary W. Pearman 6/26/12
Gary W. Pearman Date

Janet Carder July 23, 2012
Janet Carder, Executive Director Date

CHRIS KOSTER

Attorney General

A handwritten signature in black ink, appearing to read "Ross Brown", is written over a horizontal line.

Ross Brown

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